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OFFICE OF PETITIONS

In re Application of	:	
Bruce A. Mosley et al.	:	
Application No. 10/688,495	:	DECISION ON PETITION
Filed: October 17, 2003	:	
Attorney Docket No.:	:	
2301-M	:	
Title: ANTIBODIES TO	:	
INTERLEUKIN-4 RECEPTORS AND	:	
USES THEREOF	:	

This is a decision on the petition filed September 27, 2004, requesting that Figure 17 be accorded a filing date of October 17, 2003, as part of the original disclosure.

The application was deposited on October 17, 2003. However, on September 9, 2004, the Office of Initial Patent Examination (OIPE) mailed a "Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (notice)," stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figure 17. The notice further indicated that a computer readable form copy of the sequence listing had not been provided.

In response, on September 27, 2004, Petitioner filed the present petition. The petition is further accompanied by a copy of Figure 17, along with a copy of applicants' postcard receipt acknowledging receipt of "Drawings (21 sheets, Figs. 1-17)" in the United States Patent and Trademark Office (Office) on October

17, 2003. Applicants request that Figure 17 be accorded a filing date of October 17, 2003 as part of the original disclosure.

Regarding the sequence listing, it is noted that pursuant to the final rulemaking published at 55 FR 18230 (May 1, 1990), the final rules do not apply to continual or divisional applications filed after the effective date. Since this application claims continuity to an application with a filing date of February 14, 1990, the effective date of this application precedes May 1, 1990, and 37 C.F.R. §§1.821-1.825 do not apply. As such, a computer readable form copy of the sequence listing is not required, and this portion of the notice is hereby **VACATED**.

It is noted that 20 sheets of drawings have been located in the electronic file, containing Figures 1 - 16.

Upon review of the record, the above-mentioned figure has not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 17, 2003 included Figure 17, and the sheet containing this figure was subsequently misplaced in the Office.

Therefore, the application, including Figure 17, was complete on filing and this figure is entitled to a filing date of October 17, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed September 9, 2004 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of \$130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 17, 2003, using the original application papers filed on that date, as well as the Figure 17 submitted on September 27, 2004, 2004 and for indication in Office records that this figure was present on filing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.



Paul Shanowski
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Office of Petitions
United States Patent and Trademark Office